



WESTFIELD-WASHINGTON TOWNSHIP
ADVISORY PLAN COMMISSION

September 6, 2016
1606-PUD-07
Exhibit 1

Docket Number: 1606-PUD-07 (Ordinance No. 16-12)

Petitioner: TMC Developers, LLC by Nelson & Frankenberger

Request: An amendment to the Mixed Use District of the Harmony Planned Unit Development (PUD) District.

Current Zoning: Harmony PUD District Ord. 12-14

Current Land Use: Vacant / Undeveloped

Property History: 1205-PUD-05 Harmony PUD District (Ord. 12-14) (01/16/13)
1605-SPP-06 Mixed Use District Primary Plat (06/06/16)
1605-ODP-06 Mixed Use District Overall Development Plan (06/06/16)
1606-SFP-16 Mixed Use District Secondary Plat (pending)
1606-DDP-20 Detailed Development Plan (CVS) (pending)

Exhibits:

1. Staff Report
2. Location Map
3. Concept Plan and Elevations
4. Harmony PUD Ord. 12-14
5. Proposed Amendment Ord. 16-12 (redline)
6. Proposed Amendment Ord. 16-12 (clean)
7. List of Issues / Comments
8. Petitioner's Response to Issues / Comments

Staff Reviewer: Jesse M. Pohlman, Senior Planner

PETITION HISTORY

This petition was introduced at the May 9, 2016, City Council meeting. The petition received a public hearing at the June 6, 2016, Advisory Plan Commission (the "Plan Commission") meeting.

Since the public hearing, the petitioners have chosen to split the petition as it relates to Area A (the "Apartment Area") and Area B and C (the "Commercial Area") (see Project Overview below). As such, this petition (1606-PUD-07) is now only applicable to the Commercial Area.

The petitioner submitted a revised ordinance for the August 1, 2016, Plan Commission meeting that removed the Apartment Area and incorporated changes in response to the public hearing comments. The Plan Commission opened their meeting on August 1, 2016, to allow additional public comment in response to the petitioner's submitted revisions. A summary of the concerns raised in response to the revisions presented on August 1, 2016, meeting is included at **Exhibit 7** (the "List of Issues / Comments").

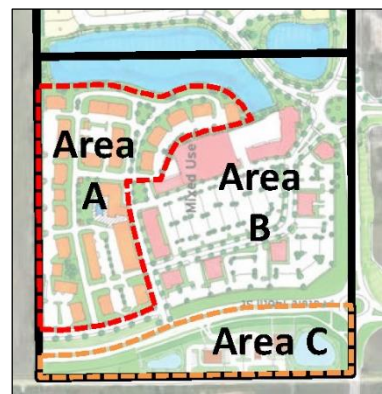
Since the August 1, 2016, Plan Commission meeting, the petitioner has further revised the proposed ordinance, which is included at **Exhibit 5**, and submitted a response to the List of Issues / Comments (see **Exhibit 8**).

PROJECT OVERVIEW

Project Location: The petitioner is requesting an amendment to the Harmony Planned Unit Development (PUD) District for the thirty-three (33) acres+/- located on the northwest corner of 146th Street and Ditch Road (see **Exhibit 2**).

The subject property encompasses “Areas” B and C of the PUD District (collectively, the “Commercial Area”). The PUD Ordinance establishes the LB: Local and Neighborhood Business District as the underlying zoning district.

Property History: The property is zoned the Harmony PUD District (Ord. 12-14) (the “PUD Ordinance”). The PUD Ordinance was adopted in 2013, and includes 278 acres. Since then, the detached single-family areas of the PUD District have been under development.



In March 2016, the petitioner filed a primary plat (1605-SPP-06) and overall development plan (1605-ODP-06) that included the Commercial Area, which were approved by the Plan Commission on June 6, 2016.

In April 2016, the petitioner filed a secondary plat (1606-SFP-16) for the Mixed Use District, and a detailed development plan (1606-DDP-20) for a CVS directly on the northwest corner of 146th Street and Ditch Road. The detailed development plan for CVS received its public hearing at the June 6, 2016, Plan Commission meeting, and is currently pending.

AMENDMENT REQUEST

The petitioner requests this amendment to address the following:

Permitted Uses: The PUD Ordinance currently defaults to the LB District for permitted uses. In addition, within Area C, the PUD Ordinance currently permits, but then limits restaurants with drive through facilities to: Snack Restaurants¹, Sandwich Restaurants², Pizza/Pasta

¹ PUD Ordinance defines “Restaurant, Snack” as “a Quick Service Restaurant specializing in (1) preparing and/or serving a specialty snack, such as ice cream, frozen yogurt, doughnuts, bagels, cookies, or popcorn or (2) serving nonalcoholic beverages, such as coffee, juices, or sodas for consumption on or near the premises. These establishments may carry and sell a combination of snack, nonalcoholic beverage, and other related products (e.g., coffee beans, mugs, coffee makers) but primarily promote and sell a unique snack or nonalcoholic beverage.”

² PUD Ordinance defines “Restaurant, Sandwich” as “a Quick Service Restaurant specializing in sandwiches as the primary menu feature.”

Restaurants³, Mexican Restaurants⁴, Chicken Restaurants⁵, and Asian Restaurants⁶. The PUD Ordinance specifically prohibits Burger Restaurants⁷ and Seafood Restaurants⁸. The definitions for the above restaurant uses, as defined by the PUD Ordinance, are noted. In addition, the PUD Ordinance defines a “Quick Service Restaurant” as “an establishment primarily engaged in providing food services where patrons order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer’s location.”

The proposed amendment, as revised since the public hearing:

1. Prohibits Fast Food Restaurants⁹ (including the previously permitted restaurants, as summarized above).
2. Permits one (1) Gasoline Service Station¹⁰ within Area C. As revised, the proposed ordinance restricts the hours of operation between 5:00 a.m. and midnight with an exception. The Towne West Planned Unit Development (PUD) District (northeast corner of 146th Street and Towne Road) currently permits a Gasoline Service Station. The proposed ordinance provides that if that Gasoline Service Station operates between the hours of 5:00 a.m. and midnight, then this Gasoline Service Station would be permitted to do so as well.

A Gasoline Service Station is a Special Exception¹¹ use in the underlying LB District; however, the use is not currently permitted because the use is not specifically a Permitted Use in the LB District¹².

³ PUD Ordinance defines “Restaurant, Pizza/Pasta” as “a Quick Service Restaurant specializing in pizza and pasta as the primary menu feature.”

⁴ PUD Ordinance defines “Restaurant, Mexican” as “a Quick Service Restaurant specializing in Mexican cuisine.”

⁵ PUD Ordinance defines “Restaurant, Chicken” as “a Quick Service Restaurant specializing in chicken as the primary menu feature.”

⁶ PUD Ordinance defines “Restaurant, Asian” as “a Quick Service Restaurant specializing in cuisine from the Asian region.”

⁷ PUD Ordinance defines “Restaurant, Burger” as “a Quick Service Restaurant specializing in hamburgers as the primary menu feature.”

⁸ PUD Ordinance defines “Restaurant, Seafood” as “a Quick Service Restaurant specializing in seafood as the primary menu feature.”

⁹ Chapter 12 of the Unified Development Ordinance defines “Restaurant, Fast Food” as “[a]n establishment whose primary business is the sale of food prepared and available before an order is placed and typically includes most of the following characteristics: (i) the meal is paid for prior to consumption; (ii) patrons often order from a menu board, are served their food at a counter or in a motor vehicle in packages prepared to leave the premises or may be taken to a table or counter to be consumed; (iii) includes a high-volume drive-through facility. Example businesses include drive-in food and beverage establishments and restaurants or cafeterias having less than fifty percent (50%) of gross sales derived from food sales excluding drive-through.”

¹⁰ Chapter 12 of the Unified Development Ordinance defines “Gasoline Service Station” as “[a]ny building or land used for the retail sale of automobile fuels and lubricants and which typically includes fuel pumps and underground storage tanks.

¹¹ Chapter 12 of the Unified Development Ordinance defines “Special Exception” as “[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted.”

Minimum Building Setbacks: The proposed amendment modifies three minimum building setback standards as follows:

1. Reduces the front yard setback along internal streets from 60 feet (as set forth by the LB District) to 20 feet (10 feet along the private street north of the proposed CVS building). Twenty (20) feet is the same standard the PUD Ordinance establishes for the front yard setback along 146th Street and Ditch Road.
2. Reduces the side and rear yard setbacks from 15 feet and 20 feet, respectively, to zero (0) feet interior to the Mixed Use District.
3. Reduces the front yard setback along old 146th Street (south line of Area C for the proposed Gasoline Service Station) from twenty (20) feet to ten (10) feet.

Landscape Buffer Yards: With respect to the Commercial Area, the PUD Ordinance defaults to the UDO's landscaping standards with the exception of the External Street Frontage Landscaping Requirements.

The External Street Frontage Landscaping Requirements, which were adopted as part of the UDO after the Harmony PUD Ordinance was adopted, are superseded by the PUD Ordinance's "Landscape Buffer A" and "Landscape Buffer B" as they apply to those areas shown on the adjacent graphic.

The proposed amendment now defaults to the UDO's External Street Frontage Landscaping Requirements as noted below.



1. External Frontage Landscaping / Landscape Buffer:

	PUD Ordinance Buffer A	PUD Ordinance Buffer B	Amendment Defaults to UDO's External Street Frontage Landscaping ¹³
Minimum Width	20 feet	10 feet	10 feet
Evergreen Trees	1.5 per 30 feet	1 per 30 feet	3 per 100 feet
Shade Trees	-	-	
Ornamental Trees	-	-	2 per 100 feet
Shrubs	5 evergreen per 30 feet	5 evergreen per 30 feet	25 per 100 feet

¹² Section 2.2. of the Harmony PUD Ordinance provides that uses permitted in the LB District are permitted. Article 13.1(B) of the UDO provides uses are either permitted, not permitted or a Special Exception. As a Special Exception use in the LB District, a Gasoline Service Station is determined to not be a permitted use.

¹³ Article 6.8(M)(2) of the UDO provides that this requirement may be credited when perimeter parking area landscaping requirements overlap external street frontage landscaping (located within 20 feet of the right-of-way).

2. **Area C (Gasoline Service Station):** In addition to the above, the amendment proposes to modify the south property line of Area C (along old 146th Street) as follows:

	PUD Ordinance Buffer A	Amendment Defaults to UDO's External Street Frontage Landscaping ¹⁴
Minimum Width	20 feet	10 feet*
Evergreen Trees	1.5 per 30 feet	3 per 100 feet**
Shade Trees	-	
Ornamental Trees	-	2 per 100 feet**
Shrubs	5 evergreen per 30 feet	25 per 100 feet**
Screen Wall	-	proposed in lieu of otherwise applicable plantings

*Amendment allows the width to be reduced by permitting sidewalks and drive aisles to encroach into the landscaping area.

**Amendment allows plantings to be located within the adjacent right-of-way. The adjacent right-of-way is the jurisdiction of Hamilton County. As a result, the Department recommends language be added that plantings are permitted within the adjacent right-of-way "subject to approval by the County".

Sign Standards: The PUD Ordinance defaults to the UDO for the applicable sign standards. The proposed amendment addresses the Gasoline Service Station proposed within Area C, which by definition, would qualify as an Outlot¹⁵ thus would not be permitted to have individual ground signs. Due to the non-contiguous nature of Area C from the remainder of the Nonresidential Center¹⁶, the proposed amendment specifies that signage for Area C would be permitted and regulated as an Individual Nonresidential Use¹⁷.

In addition, to complement the "village design theme", the proposed ordinance restricts wall signs within Area B to only be externally lit with decorative lighting. This restriction would not apply to Area C (Get Go).

Architectural Standards: The PUD Ordinance adopts the UDO's Architectural Design Requirements of the State Highway 32 Overlay District to apply to the commercial uses of the Mixed Use District. The proposed amendment originally incorporated the CVS and GetGo franchised designs to replace and supersede the otherwise applicable architectural standards.

¹⁴ Article 6.8(M)(2) of the UDO provides that this requirement may be credited when perimeter parking area landscaping requirements overlap external street frontage landscaping (located within 20 feet of the right-of-way).

¹⁵ Chapter 12 of the UDO defines "Outlot" as "[a] Lot within a Nonresidential Center that typically abuts a Street on one Lot Line and either a Street or other vehicular access (i.e. Private Street) shared with other Lots within the Nonresidential Center on another Lot Line."

¹⁶ Chapter 12 of the UDO defines "Nonresidential Center" as "[a] building or combination of buildings containing three (3) or more tenants, stores, service establishments, offices or other permitted uses which are planned, platted, organized, or managed to function as a unified whole and shares one or more of the following: (1) vehicular access; (2) Parking Areas; (3) signage; (4) landscaping; or (5) design theme; and/or is platted as part of a Subdivision or coordinated shopping center, which may include Outlots for lease or for sale."

¹⁷ Chapter 12 of the UDO defines "Nonresidential Use, Individual" as "[a]ny building or combination of buildings with a single tenant, store, service establishment, office or other permitted nonresidential use and not part of a Nonresidential Center."

Since the public hearing, the petitioner has submitted revised CVS and GetGO elevations in response to the public hearing comments that spoke in regard to residents wanting to see a more “village” architectural theme for buildings within the Commercial Area.

The proposed amendment provides that the CVS and GetGo buildings “shall be constructed in substantial compliance with the elevations and materials illustrated on the Illustrative Character Exhibit”, as revised.

Illustrative Character Exhibit – CVS: The detailed development plan (1606-DDP-20) for the proposed CVS has been reviewed in accordance with the currently applicable architectural standards (see corresponding Department Report for 1606-DDP-20). The Illustrative Character Exhibit does not comply with, and would generally modify the standards for: building materials (Masonry Materials); building façade offsets.

Illustrative Character Exhibit – GetGo: The Illustrative Character Exhibit does not comply with, and appears to generally modify the standards for: building façade offsets; four-sided architecture (specifically the proposed right and rear elevations). The original Illustrative Character Exhibit depicts outdoor storage/display items; however, these would be subject to Article 6.12(C) Outside Storage and Display of the UDO, which requires screening.

Village Design Theme: In response to public hearing comments, the revised ordinance proposes that all other buildings within the Commercial Area be required to be of a “village design theme”. In coordination with the Department, the petitioner’s proposed ordinance incorporates a reference to the Defined Architectural Styles that apply to Harmony’s single-family homes to establish the “village design theme” applicable to the Commercial Area.

Comprehensive Plan: As summarized in the original zoning of the PUD District, the Future Land Use Map in the Westfield-Washington Township Comprehensive Plan (the “Comprehensive Plan”) identifies the property as “New Suburban”.

PROCEDURAL

Public Hearing: Amendments to a Planned Unit Development (PUD) District are required to be considered at a public hearing by the Plan Commission. The public hearing for this petition was held on June 6, 2016, Plan Commission meeting. Notice of the public hearing was provided in accordance with Indiana law and the Plan Commission’s Rules of Procedure.

Statutory Considerations:

Indiana Code 36-7-4-603 states that in the consideration of zoning ordinance amendments and zone map changes that reasonable regard shall be paid to:

1. The Comprehensive Plan.
2. Current conditions and the character of current structures and uses.

3. The most desirable use for which the land is adapted.
4. The conservation of property values throughout the jurisdiction.
5. Responsible growth and development.

PUBLIC HEARING COMMENTS

The written comments that were submitted in response to the petition as presented at the June 6, 2016, public hearing, are included with the August 1, 2016, Plan Commission meeting agenda ([link here](#)). The public comments presented at the public hearing are summarized in the Plan Commission's minutes of the June 6, 2016, meeting ([link here](#)).

Since the public hearing, the Plan Commission permitted additional public comment at the August 1, 2016, meeting in response to revisions proposed by the petitioner. The written comments that were submitted in response to those revisions presented on August 1, 2016, are also included with the August 1, 2016, Plan Commission meeting agenda ([link here](#)).

A summary of the concerns raised in response to the revisions presented on August 1, 2016, meeting is included at **Exhibit 7** (the "List of Issues / Comments"). The petitioner's response to the List of Issues / Comments is included at **Exhibit 8**.

DEPARTMENT COMMENTS

1. **Action: Forward a recommendation to the Council (1606-PUD-07 / Ord. No. 16-12).**
2. If any Plan Commission member has questions prior to the meeting, then please contact Jesse Pohlman at (317) 402-4380 or jpohlman@westfield.in.gov.